IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 727 OF 2005
IN
FIRST APPEAL NO. 267 OF 1996
IN
L.A.R. NO. 25 OF 1989

The State of Maharashtra] .. Applicant (Ori.Opponent)

Versus

1. Ramchandra Dayaram Vachhani & ors] .. Respondents

Mrs. G.P. Mulekar, AGP, for the applicant.

Mr. R.M. Haridas i/b Mr. P.N. Joshi for respondents No.1(a), 1(b) and 2.

CORAM: R.M. LODHA &
S.J. VAZIFDAR, JJ.

DATED: 17TH JULY, 2006

P.C. :

. The respondent No.1 Ramchandra Dayaram Vachhani is said to have expired on 3rd September, 2004. That the respondent No.1 has died came to the notice of the appellants-applicants when they received the letter dated 28th September, 2004 from the respondent's Advocate. On 21st December, 2004 the application has been made for setting aside the abatement; condonation of delay and for bringing on record the legal representatives of the deceased respondent No.1.

2. Though the Appeal abated on expiry of 90 days from the date of death of deceased respondent No.1, but we find within 90 days of the receipt of the information of the death of respondent No.1, the application has been made for setting aside the abatement. We are thus satisfied that the abatement be set aside; delay in making the application for bringing the legal heirs on record be condoned and legal representatives of the deceased respondent No.1 be permitted to be brought on record. We accordingly grant the Civil Application in terms of prayer clauses (a), (b) and (c).

3. Prayer clauses (a), (b) and (c) read thus:

> "(a) This Hon'ble Court be pleased to condone delay, if any, in preferring above mentioned Civil Application for bringing legal heirs on record of deceased Respondent /Orig. claimant No.1 as stated hereinabove;
>
> (b) this Hon'ble Court be pleased to set aside the abatement of above mentioned matter;
>
> (c) this Hon'ble Court be pleased to allow the applicant to bring legal heirs on record of deceased Respondent/Orig. claimant No.1 as stated herein above in the above mentioned matter;"

4. Necessary amendment in the cause title be carried out within two weeks from today.

5. Mr. R.M. Haridas, waives service on behalf of the legal heirs of respondent No.1.

6. We accordingly direct that upon the legal representatives of respondent No.1 being brought on record, no notice be issued to the said legal representatives and service upon them be treated as sufficient.

7. Office to proceed accordingly.

8. Civil Application stands disposed of.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.J. VAZIFDAR, J.]